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March 10, 2006

The Honorable Michael O. Leavitt
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Secretary Leavitt:

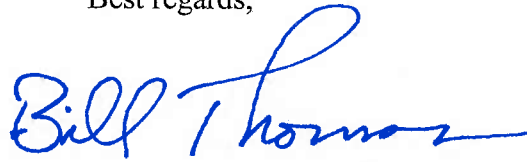
I am writing to you about a serious problem within your Department that affects the ability of the Department to ensure the integrity of the Medicare Trust Fund and the success of the President's recent initiative to increase health care price transparency. In 1988, Congress gave the Office of Inspector General (OIG) authority to determine what constitutes an excessive level of charges submitted by a provider or supplier to the Medicare and Medicaid programs. If a provider failed to submit reasonable charges, it would be excluded from participation in public programs, which is a powerful economic incentive. The OIG proposed and withdrew regulations in 1990 and 1997 on this topic. Over the years, the OIG's failure to establish an overall framework for overcharges cost taxpayers \$9 billion in overpayments to hospitals for outlier cases, as well as billions of dollars in excessively high charges involving other parties including durable medical equipment suppliers.

In 2003, the OIG proposed yet another rule that would have established a reasonable benchmark for determining an excessive level of charges relative to the rates paid by the private sector. Three years later, this rule has not been finalized. Recently, President Bush proposed to control health care costs and to better inform consumers through transparent pricing. This is difficult to accomplish, however, because hospital charges have become so grossly inflated above their private market rates so as to be almost meaningless. Absent a market-based benchmark, a broad transparent pricing initiative that includes hospitals will fail before it starts. Such a result would be disappointing to health care consumers, lawmakers, and the American public.

It is unacceptable that the OIG refuses to move forward on this rule. The OIG apparently chooses to sacrifice the interests of taxpayers over those who wish to keep real prices shrouded in order to gouge the public, employers and insurers. Congress provided clear statutory authority for their oversight in this area and the OIG should not abdicate its responsibility to protect taxpayers and beneficiaries.

A failure to act should never be tolerated. I urge that this regulation be finalized as quickly as possible. In addition, the Committee is reviewing all aspects of the Department's budget, including the request to increase funding for the Health Care Fraud and Abuse Control Account. The OIG's refusal to define excessive charges leads me to be concerned about whether the Department is committed to reducing wasteful health care spending and, concomitantly, whether increased funding to this account would be warranted at this time.

Best regards,

A handwritten signature in blue ink that reads "Bill Thomas". The signature is fluid and cursive, with a long horizontal stroke at the end.

Bill Thomas
Chairman

cc: The Honorable Joshua B. Bolten
Director, Office of Management and Budget